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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,243	01/14/2004	Steven B. Dunn	MBI-1151	4360

7590 04/28/2005

KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center
Suite 1350
1628 John Kennedy Blvd.
Philadelphia, PA 19103

EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/757,243	DUNN ET AL.	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-27 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 2,160,618 to Kreutzig. Kreutzig teaches the structure to enable the grooming to be able to adjust from a first direction and a second direction since elements #17, present on each end of the comb, retain the comb in the housing and both ends of the comb contain hinged element #22 and 25 which when in an open position would enable one to move the comb either in one direction or an opposite direction beyond the housing. Kreutzig has not provided an illustration of the tool positioned in both directions, nor has Kreutzig described this movement in the specification. However, there appears to be no structural reason why one of ordinary skill could not slide it in either direction. It would have been obvious to one of ordinary skill in the art to slide the grooming tool of Kreutzig in either direction depending on if the person is left or right handed and the ergonomic ease associated with sliding in a particular direction.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10-13, 15-18, 21-24, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,160,618 to Kreutzig.

Regarding Claims 1, 15-18, and 23, Kreutzig teaches a housing (#13), said housing having an outer gripping surface; and a longitudinally extending grooming tool (#12), at least a portion of said longitudinally extending grooming tool being mounted within said housing for longitudinal sliding movement with respect to said housing (Fig. 1, 2, and 9), whereby a user may adjust the longitudinal position of the grooming tool with respect to said housing while continuously maintaining a grip on said outer gripping surface and Kreutzig inherently teaches the method steps during the operation of the device; the housing has an outer gripping surface (Kreutzig Fig. 2 #13a) and an inner gripping surface, wherein the inner gripping surface is contoured (Kreutzig Fig. 2 #13b, "Contoured" merely means having an outline, i.e. shape; also, Kreutzig Fig. 1 shows that the bottom of element #13b has a slight curvature).

Kreutzig inherently teaches that the grooming tool is capable of being adjusted in a first and second direction to a first extended longitudinal position with respect to the housing and said grooming tool is further adjustable in a second direction opposite the first direction to a second extended longitudinal position with respect to the housing (Kreutzig Fig. 12 tool #12 has a slot #21 that engages with elements #17 of Fig. 1 located at both ends of the comb and hinged elements #22 and 25 open at both ends to enable the comb to be removed from the housing).

Regarding Claims 2 and 24, Kreutzig teaches the longitudinally extending grooming tool comprises a comb having a longitudinal axis and a plurality of tines (#12) that extend substantially perpendicularly to said longitudinal axis.

Regarding Claim 3, Kreutzig teaches the comb has a length that is no greater than a length of said housing (Fig. 2 #22).

Regarding Claim 4, Kreutzig teaches the comb is adjustable to a retracted longitudinal position with respect to said housing wherein said outer gripping surface is substantially centered with respect to said plurality of tines (Fig. 2).

Regarding Claim 5, Kreutzig teaches the comb is further adjustable to an extended longitudinal position with respect to said housing wherein said outer gripping surface is substantially longitudinally offset from said plurality of tines (Fig. 1).

Regarding Claims 10 and 26, Kreutzig teaches at least one predetermined stop position of longitudinal adjustment of said grooming tool with respect to said housing (Fig. 1 #20).

Regarding Claims 11 and 21, Kreutzig teaches a means for releasably positioning said grooming tool in said at least one predetermined stop position (Fig. 1).

Regarding Claims 12, 22 and 27, Kreutzig teaches locking means for locking said longitudinally extending grooming tool in a desired position with respect to said housing (#20).

Regarding Claim 13, Kreutzig teaches a comb having a shank (#10) portion and a plurality of tines (#12), and wherein at least a portion of said shank portion is mounted for longitudinal sliding movement within the housing while said tines are positioned externally of said housing so as to be available for grooming use.

Claim Rejections - 35 USC § 103

Art Unit: 3643

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,160,618 to Kreutzig.

Regarding Claim 6, Kreutzig is silent on the outer gripping surface is textured to facilitate a firm grip thereon. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since it is old and notoriously well-known to texture a surface for a better ergonomic grip to increase traction between the hand and the surface via increased friction to prevent slippage.

Regarding Claim 7, Kreutzig as modified is silent on outer gripping surface is fabricated from resilient elastomeric material. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the selection of a known material for intended use [Leshin 125 USPQ 416] and is an engineering design choice to meet certain cost parameters.

Claims 8, 9, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,160,618 to Kreutzig in view of U.S. Patent Des. 143,972 to Kahn.

Regarding Claims 8, 19 and 20, Kreutzig is silent on comb is configured to have a first coarse group of tines that are spaced from each other by a first distance and a

Art Unit: 3643

second fine group of tines that are spaced from each other by a second distance that is less than said first distance. However, Kahn teaches two sets of fines, coarse and fine (Kahn Fig. 1). It would have been obvious to one of ordinary skill in the art to modify the teachings of Kreutzig with the teachings of Kahn for enhanced grooming capabilities through both thick and thin hair.

Regarding Claim 9, Kreutzig as modified teaches the comb may be adjusted in a first direction with respect to said housing so as to permit efficient use of said first coarse group of tines, and wherein said comb may alternatively be adjusted in a second direction that is opposite from said first direction to permit efficient use of said second fine group of tines (Kreutzig Fig. 1 and 2).

Claims 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,160,618 to Kreutzig in view of U.S. Patent No. 2,772,682 to Pflueger et al.

Regarding Claims 14 and 25, Kreutzig is silent on the tines being rotatably mounted with respect to said comb. However, Pflueger teaches it is old and notoriously well-known to have the tine rotatably mounted with respect to the comb (Pflueger Fig. 6 #19). It would have been obvious to one of ordinary skill in the art to modify the teachings of Kreutzig with the teachings of Pflueger at the time of the invention to facilitate combing of knotted portions of the hair as taught by Pflueger (Pflueger Col. 1 line 22-23).

Claims 1-7, 10-13, 15-18, 21-24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,160,618 to Kreutzig.

Regarding Claims 1, 15-18, and 23 Kreutzig teaches a housing (#13), said housing having an outer gripping surface; and a longitudinally extending grooming tool (#12), at least a portion of said longitudinally extending grooming tool being mounted within said housing for longitudinal sliding movement with respect to said housing (Fig. 1, 2, and 9), whereby a user may adjust the longitudinal position of the grooming tool with respect to said housing while continuously maintaining a grip on said outer gripping surface and Kreutzig inherently teaches the method steps during the operation of the device (Kreutzig Fig. 12 tool #12 has a slot #21 that engages with elements #17 located at both ends of the comb and hinged elements #22 and 25 open at both ends to enable the comb to be removed from the housing); the housing has an outer gripping surface (Kreutzig Fig. 2 #13a) and an inner gripping surface, wherein the inner gripping surface is contoured (Kreutzig Fig. 2 #13b, "Contoured" merely means having an outline, i.e. shape; also, Kreutzig Fig. 1 shows that the bottom of element #13b has a slight curvature).

Kreutzig does not explicitly teach that the grooming tool is capable of being adjusted in a first and second direction to a first extended longitudinal position with respect to the housing and said grooming tool is further adjustable in a second direction opposite the first direction to a second extended longitudinal position with respect to the housing. However, there appears to be no structural reason why one of ordinary skill could not slide it in either direction. It would have been obvious to one of ordinary skill

Art Unit: 3643

in the art to slide the grooming tool of Kreutzig in either direction depending on if the person is left or right handed and the ergonomic ease associated with sliding in a particular direction.

Regarding Claims 2 and 24, Kreutzig as modified teaches the longitudinally extending grooming tool comprises a comb having a longitudinal axis and a plurality of tines (#12) that extend substantially perpendicularly to said longitudinal axis.

Regarding Claim 3, Kreutzig as modified teaches the comb has a length that is no greater than a length of said housing (Fig. 2 #22).

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Art Unit: 3643

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Regarding Claim 6, Kreutzig as modified is silent on the outer gripping surface is textured to facilitate a firm grip thereon. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since it is old and notoriously well-known to texture a surface for a better ergonomic grip to increase traction between the hand and the surface via increased friction to prevent slippage.

Regarding Claim 7, Kreutzig as modified is silent on outer gripping surface is fabricated from resilient elastomeric material. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the selection of a known material for intended use [Leshin 125 USPQ 416] and is an engineering design choice to meet certain cost parameters.

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Art Unit: 3643

Regarding Claims 8, 19 and 20, Kreutzig as modified is silent on comb is configured to have a first coarse group of tines that are spaced from each other by a first distance and a second fine group of tines that are spaced from each other by a second distance that is less than said first distance. However, Kahn teaches two sets of fines, coarse and fine (Kahn Fig. 1). It would have been obvious to one of ordinary skill in the art to modify the teachings of Kreutzig with the teachings of Kahn for enhanced grooming capabilities through both thick and thin hair.

Regarding Claim 9, Kreutzig as modified teaches the comb may be adjusted in a first direction with respect to said housing so as to permit efficient use of said first coarse group of tines, and wherein said comb may alternatively be adjusted in a second direction that is opposite from said first direction to permit efficient use of said second fine group of tines (Kreutzig Fig. 1 and 2).

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Art Unit: 3643

invention to facilitate combing of knotted portions of the hair as taught by Pflueger (Pflueger Col. 1 line 22-23).

Response to Arguments

Applicant's arguments filed 22 February 2005 have been fully considered but they are not persuasive.

Examiner would like to draw applicant's attention to previously cited prior art references U.S. Patent No. 2,480,157; U.S. Patent No. 1,621,425; U.S. Patent No. 3,354,890; and U.S. Patent No. 1,672,468 that all appear to be capable of moving in two opposite longitudinal directions relative to the housing. Thus, this function is notoriously old and well-known in the art. Examiner maintains that Kreutzig has the structural ability to move into two different longitudinal positions relative to the housing member or that it would have been obvious to one of ordinary skill in the art to modify the teachings to explicitly teach positioning it in two different longitudinal positions relative to the housing for ergonomic ease of a person that is either left or right handed. Examiner maintains that applicant has not patentably distinguished over the teachings of the cited prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 3643

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

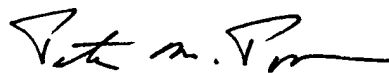
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Examiner
Art Unit 3643

25 April 2005



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600